

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

YALE UNIVERSITY

-and-

UNITE HERE, LOCAL 33

Case Nos. 01-RC-183016  
01-RC-183022  
01-RC-183025  
01-RC-183031  
01-RC-183043  
01-RC-183050

MOTION FOR PERMISSION TO EXCEED  
PAGE LIMITATION ON REQUEST FOR REVIEW

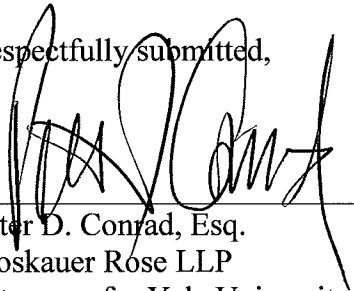
Pursuant to Section 102.67(i)(1) of the Board's Rules and Regulations, Yale University moves for permission to exceed the Board's 50-page limit on requests for review and briefs in support in the above-captioned matter.

As set forth below and in the annexed affidavit of Peter D. Conrad, Esq., Yale requests an additional 10 pages for its post-election Request for Review of the Regional Director's Decision and Direction of Election, dated January 25, 2017, finding the University's Teaching Fellows to be "employees," having already filed a 33-page pre-election Request for Expedited Review and Stay of Election/Impoundment of Ballots addressed to the Regional Director's erroneous determination that the petitioned-for departmental units are appropriate for purposes of collective bargaining.

The Certifications of Representative in the matters identified above were issued on March 3, 2017, resulting in a final disposition of the proceeding by the Regional Director. Accordingly, Yale's Request for Review is due March 17, and this application is timely.

Dated: March 10, 2017  
New York, New York

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter D. Conrad", is written over a horizontal line.

Peter D. Conrad, Esq.  
Proskauer Rose LLP  
Attorneys for Yale University  
Eleven Times Square  
New York, NY 10036  
(212) 969-3000

To: John J. Walsh, Jr., Regional Director  
Yuval Miller, Esq.  
Thomas W. Meicklejohn, Esq.  
Paul Salvatore, Esq.  
Steven J. Porzio, Esq.  
Jonathan E. Clune, Esq.

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AFFIDAVIT

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

PETER D. CONRAD, being duly sworn, deposes and says:

1. I am a member of the law firm of Proskauer Rose LLP, located at Eleven Times Square, New York, NY 10036.

2. I am counsel of record to Yale University in the matters identified above and provide this affidavit to the National Labor Relations Board in support of the University's motion pursuant to Section 102.67(i)(1) of the Board's Rules and Regulations for permission to exceed the 50-page limit on its Request for Review from the Regional Director's January 25, 2017 Decision and Direction of Election, erroneously concluding that the University's Teaching Fellows are employees as defined in Section 2(3) of the National Labor Relations Act.

3. The hearing in this consolidated representation proceeding, in which Petitioner seeks to represent Yale Graduate Students serving as Teaching Fellows, was conducted over 17 days in September and October 2016, generating a record consisting of a 2500 page transcript (with testimony from 16 witnesses) and over 100 exhibits. The issues are complex -- factually and legally -- and of critical importance not only to Yale, but to institutions of higher education across the country. The NLRB's 2016 decision in *Columbia University*, 364 NLRB No. 90 (2016), has resulted in extensive organizational activity among graduate student assistants at many of the nation's leading universities, including Yale, Harvard, Duke and others. The organizational rights of graduate students who teach and conduct research as part of their educational program has become one of the foremost labor relations issues of the decade.

4. On February 15, 2017, eight days before representation elections were scheduled to be held in this matter, the University filed a 33-page Request for Expedited Review and other extraordinary relief under the Board's Rules and Regulations. The subject of that request was the Regional Director's erroneous determination that the petitioned for units, each limited to Teaching Fellows appointed in a single academic department, were appropriate for purposes of collective bargaining. On February 22, the Board majority denied Yale's application for expedited consideration of the issues on review, with Acting Chairman Miscimarra vigorously dissenting. *Yale University*, 365 NLRB No. 40 (2017).

5. The elections at Yale proceeded the following day. Local 33 received a majority of the votes cast by Teaching Fellows in six of the petitioned-for units, resulting in its certification in those bargaining units. (In two other units, determinative challenges are currently under investigation. In the one remaining unit, Petitioner failed to receive a majority of the votes cast, and a Certification of Results of Election was issued.)

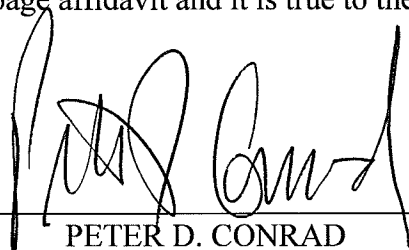
6. Based on the February 23 elections, Certifications of Representative were issued by the Regional Director in Case Nos. 01-RC-183016, -183022, -183025, -183031, -183043 and -183050 on March 3, 2017. As such, the University's Request for Review presently is due on March 17. Yale has requested a one week extension of the due date to March 24, but there has not yet been any action on that request.

7. Now that there has been a final disposition of the above-captioned matters by the Regional Director, with the issuance of the six Certifications of Representative, the University will file its Request for Review of the Regional Director's finding that Yale's Teaching Fellows are statutory employees, an issue that the University did not substantively address in its pre-election Request for Expedited Review and other extraordinary relief. That filing was limited to the Regional Director's erroneous unit determination; however, Yale reserved its right therein to request review of the Regional Director's Section 2(3) ruling.

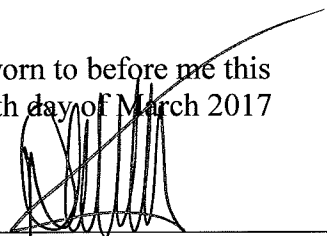
8. In the event that Yale's pre-election Request for Expedited Review -- which covered 33 pages due to the complexity and length of the record relating to the appropriateness of nine separate departmental units -- is chargeable against the 50-page limit, then the University requests an additional 10 pages beyond what remains of the 50-page limit for its Request for Review of the Regional Director's erroneous determination that Yale's Teaching Fellows are employees as defined in the Act, to ensure that this issue is properly briefed for the Board's consideration. However, if a separate 50-page limit would apply to Yale's post-election Request for Review on the Section 2(3) issue, then no relief from the limitations of Section 102.67(i)(1) is required.

9. Petitioner's counsel was advised on March 8 that this motion would be filed and was asked at that time to state its position. There has been no response. However, we note that in connection with a related request for an additional week to file our Request for Review, Petitioner's counsel took the baseless position that Yale had no right to file a further Request for Review.

10. I have reviewed the foregoing four page affidavit and it is true to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
PETER D. CONRAD

Sworn to before me this  
10th day of March 2017

  
\_\_\_\_\_  
Notary Public

ROBIN D. CARTER  
Notary Public, State of New York  
No. 01CA4889955  
Qualified in Bronx County  
Commission Expires April 20, 2019